

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 96016

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-116-96

DOCUMENTS INCLUDED IN THIS FILE:

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

REGULATORY PETITIONS

ORIGINAL DRAFTED BY COMMISSION

ADOPTED BY COMMISSION

YES AS FILED AND CODIFIED BY LCB

Secretary of State
Filing Data

For Filing Administrative
Regulations

For Emergency
Regulations Only

Effective Date _____

Expiration Date _____

Governor's Signature

State Environmental Commission

Classification [] Proposed [] Adopted By Agency [xx] Temporary [] Emergency []

Brief description of action: LCB R-116-96 (Petition 96016) permanently amends NAC 444.470 to NAC 444.7499 by making an exemption for Class II landfills from ground water monitoring standards as provided by the U.S. Congress. The amendments allow for interim site approval to be revoked if the owner/operator fails to provide adequate permit application documents within one year of notification of application deficiencies. NAC 444.711 amended to require a system for monitoring moisture in unsaturated zones under certain conditions. The term "wet garbage" is deleted in NAC 444.632.

Authority citation other than 233B: NRS 444.560

Notice date: August 9, August 11, August 20 and August 26, 1996

Hearing date: September 10, 1996

Date of Adoption of Agency: September 10, 1996

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PETITION 96016
LCB FILE R-116-96**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 459.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 96016 (R-116-96) was noticed three (3) times: August 9, August 20, and August 28, 1996, in the Las Vegas Review Journal and the Reno Gazette-Journal newspapers. Public comment from the national Antifreeze Coalition was received. In exhibit #1 they expressed that the State adopt voluntary management standards for used antifreeze. They were supportive of the regulatory change. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (702) 687-4670 extension 3117, or writing to the Commission at 333 W. Nye Ln., Room 128, Carson City, Nevada 89710.

2. The number persons who:

- | | | |
|-----|---|----|
| (a) | Attended each hearing; | 35 |
| (b) | Testified at each hearing: | 15 |
| (c) | Submitted to the agency written comments: | 13 |

Note: Two written comments (exhibit #1 and #4) were received from the national Antifreeze Coalition and Barrick Goldstrike Mines. Two persons testified at the Environmental Commission hearing of September 10, 1996, regarding the antifreeze regulations.

3. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. The Bureau of Waste Management also notified and sent draft regulations to affected businesses. Testimony was received at the hearing from the Nevada Mining Association and the Nevada Recyclers Coalition. The Recycler Coalition was supportive of the regulation. The Mining Association felt that only ethylene glycol should have to be reported upon when a spill occurs. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (702) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 128, Carson City, Nevada 89710.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The permanent regulation was adopted at the State Environmental Commission hearing on September 10, 1996, with changes to the regulation. Changes were proposed during adoption of the regulation.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects; and
- (b) Both immediate and long-term effects.

The proposed regulations will promote recycling of used antifreeze by removing unnecessary burdens. The regulations are expected to be beneficial to businesses in both the short and long term by reducing the waste characterization and paperwork costs associated with management of used antifreeze.

The proposed regulations will be beneficial to the public since the regulations may result in an expansion of used antifreeze collection sites. The public will not see an adverse economic affect. There will be no additional cost since used antifreeze is currently regulated by the agency.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There will be no additional cost to the agency as a result of the addition of the proposed regulations.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agencies which the proposed regulation overlaps or duplicates.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

This regulation is not more stringent than federal regulations. This regulation takes advantage of an opportunity to de-regulate a universal waste, antifreeze.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

No new fee is proposed nor is a fee increased by this regulation.

END OF FILING STATEMENT FOR R-116-96

**ADOPTED PERMANENT REGULATION OF THE
NEVADA STATE ENVIRONMENTAL COMMISSION**

LCB File No. R116-96

EXPLANATION: Matter in *italics* is new; matter in brackets [] is material to be omitted.

AUTHORITY: NRS 459.485

Section 1. Chapter 444 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 55, inclusive, of this regulation.

Sec. 2. *"Administrator" means the administrator of the division.*

Sec. 3. *"Center for the collection of used antifreeze" means any facility that accepts, aggregates, or stores used antifreeze which is collected from:*

1. Generators of used antifreeze that are governed by the provisions of sections 23 to 27, inclusive, of this regulation; or

2. A person who generates used antifreeze from his household.

This term does not include a generator of used antifreeze who collects his used antifreeze in compliance with the provisions of sections 23 to 27, inclusive, of this regulation.

Sec. 4. *"Commission" means the state environmental commission.*

Sec. 5. *"Division" means the division of environmental protection of the state department of conservation and natural resources.*

Sec. 6. 1. *"Facility for the recycling of used antifreeze" means a facility that receives used antifreeze from another site, performs recycling of the used antifreeze, and is permanently stationed at a single facility.*

2. The term includes the contiguous land and any structures, other appurtenances or improvements on the land which are used for the recycling of used antifreeze.

3. The term does not include a generator of used antifreeze who recycles his own used antifreeze or has it recycled by a mobile unit for the recycling of used antifreeze.

Sec. 7. 1. *"Facility for the transfer of used antifreeze" means a facility where shipments of used antifreeze are transported to and stored for more than 24 hours but not more than 35 days.*

2. The term includes, without limitation, loading docks and parking areas.

3. The term does not include a generator of used antifreeze who transfers his used antifreeze in compliance with the provisions of sections 23 to 27, inclusive, of this regulation.

Sec. 8. *"Generator of used antifreeze" means a person or facility that performs an act or conducts a process which produces used antifreeze.*

Sec. 9. 1. "Hazardous waste" has the meaning ascribed to it in NRS 459.430.

2. The term includes any:

(a) Hazardous waste or constituent of hazardous waste which is subject to regulation under 40 C.F.R. Part 261, as that part existed on October 3, 1996;

(b) Mixture of wastes from commercial chemical products identified in 40 C.F.R. Part 261.33, as that part existed on October 3, 1996, which has been discarded or is intended to be discarded, if at least 10 percent of the mixture, by volume, is composed of one or more of its active ingredients; and

(c) Waste brought into this state which is designated as hazardous waste in the state of its origin.

3. The term does not include waste containing polychlorinated biphenyl, unless it is mixed with hazardous waste.

Sec. 10. "Identification number" means an identification number issued by the Environmental Protection Agency.

Sec. 11. "Mobile unit for the recycling of used antifreeze" means any transportable equipment which is used to perform recycling of used antifreeze and is not permanently stationed to a single facility.

Sec. 12. "Point for aggregation" means a facility that accepts, aggregates, or stores used antifreeze which is collected from:

1. Another site where used antifreeze is generated which is owned or operated by the owner or operator of the point for aggregation; or

2. A person who generates used antifreeze from his household.

Sec. 13. "Transporter of used antifreeze" means a person who:

1. Transports used antifreeze.

2. Collects used antifreeze from more than one generator of used antifreeze and transports the used antifreeze. or

3. Owns or operates a facility for the transfer of used antifreeze.

The term does not include a generator of used antifreeze who transports his used antifreeze in compliance with the provisions of sections 23 to 27, inclusive, of this regulation.

Sec. 14. "Used antifreeze" means ethylene glycol or propylene glycol that has been used and as a result of such use is contaminated by physical or chemical impurities.

Sec. 15. 1. The provisions of sections 2 to 55, inclusive, of this regulation apply to used antifreeze that is recycled and is determined to be a hazardous waste because:

(a) It exhibits a characteristic of hazardous waste which is identified in 40 C.F.R. Part 261, Subpart C, as that part existed on October 3, 1996; or

(b) It was designated as a hazardous waste in the state of its origin.

2. The provisions of sections 2 to 55, inclusive, of this regulation do not apply to used antifreeze which will be disposed of and not recycled, or to mixtures of used antifreeze and hazardous waste. The used antifreeze described in this subsection is governed by the provisions of NAC 444.850 to 444.8746, inclusive.

Sec. 16. Each container and storage tank that is above the ground which stores used antifreeze must be:

- 1. In good condition, including, without limitation, being free from severe rusting, visible structural defects, or deterioration;*
- 2. Free from visible leaks;*
- 3. Closed unless material is being added or removed; and*
- 4. Clearly marked with the words "Used Antifreeze".*

Sec. 17. 1. Each storage tank that is underground which stores used antifreeze must comply with the requirements of 40 C.F.R. Part 265, Subpart J, as that subpart existed on October 3, 1996.

2. Each pipe that transfers used antifreeze to storage tanks that are underground must be clearly marked with the words "Used Antifreeze."

Sec. 18. Each container which stores used antifreeze at a facility for the transfer of used antifreeze or a facility for the recycling of used antifreeze must have a secondary system for containment which:

- 1. Includes dikes, berms, or retaining walls, or the equivalent, which are impervious to the penetration of used antifreeze;*
- 2. Includes a floor, or the equivalent, which covers the entire area within the dike, berm, or retaining wall and is impervious to the penetration of used antifreeze;*
- 3. Is large enough to prevent the release of used antifreeze into the soil, ground water, or surface water; and*
- 4. Has the capacity to contain either 10 percent of the total volume of the containers within the system or the volume of the largest container within the system, excluding a container which contains free liquid, whichever is greater.*

Sec. 19. 1. Each storage tank that is above the ground which stores used antifreeze at a facility for the transfer of used antifreeze or a facility for the recycling of used antifreeze must have a secondary system for containment which:

(a) Includes dikes, berms, or retaining walls, or the equivalent, which are impervious to the penetration of used antifreeze;

(b) Except as otherwise provided in subsection 2, includes a floor, or the equivalent, which covers the entire area within the dike, berm, or retaining wall and is impervious to the penetration of used antifreeze; and

(c) Is large enough to prevent the release of used antifreeze into the soil, ground water, or surface water.

2. If a storage tank that is above the ground is being used as of the effective date of this regulation, the floor of the secondary system for containment is not required to cover that portion of the tank which has contact with the ground.

Sec. 20. If used antifreeze which is not governed by the requirements of 40 C.F.R. Part 280, Subpart F, as that subpart existed on October 3, 1996, is released into the environment, a person, center or facility that is governed by the provisions of section 23 to 27, inclusive, of this regulation, sections 28 to 38, inclusive, of this regulation, or sections 39 to 50, inclusive, of this regulation shall, as soon as the release is discovered:

- 1. Immediately stop the release of used antifreeze into the environment;*
- 2. Immediately contain, if possible, the used antifreeze which was released;*
- 3. Clean up and properly manage the used antifreeze which was released and any other materials*

that were released; and

4. If necessary to prevent future releases of used antifreeze, repair or replace any storage tanks or containers.

Sec. 21. *In addition to the requirements of section 20 of this regulation, a person, center, point for aggregation, or facility that is governed by the provisions of sections 23 to 27, inclusive, of this regulation, sections 28 to 38, inclusive, of this regulation, or sections 39 to 50, inclusive, of this regulation shall, not more than 24 hours after a release, report the release by telephone pursuant to requirements for reporting set forth in 40 C.F.R. Part 302, as that part existed on October 3, 1996, to:*

1. The National Response Center, in accordance with 40 C.F.R. Part 302, as that part existed on October 3, 1996, at (800)-424-8802 or (202) 462-2675;

2. The division of emergency management of the department of motor vehicles and public safety at (702) 687-4240 during normal working hours or at (702) 687-5300 after normal working hours; and

3. The director of the department at (800) 992-0900 extension 4670, or (702) 687-4670.

Sec. 22. *If used antifreeze is released into a body of water in this state, a person, center, point for aggregation, or facility that is governed by the provisions of section 23 to 27, inclusive, of this regulation, sections 28 to 38, inclusive, of this regulation, or sections 39 to 50, inclusive, of this regulation shall, not more than 24 hours after a release, report the release by telephone to:*

1. The division of emergency management of the department of motor vehicles and public safety at (702) 687-4240 during normal working hours or at (702) 687-5300 after normal working hours; and

2. The director of the department at (800) 992-0900 extension 4670, or (702) 687-4670.

Sec. 23. 1. *The provisions of sections 23 to 27, inclusive, of this regulation apply to:*

(a) Generators of used antifreeze, except for persons who generate used antifreeze from their households.

(b) Centers for the collection of used antifreeze.

(c) Points for aggregation points.

2. The provisions of sections 23 to 27, inclusive, of this regulation do not apply to wastewater which contains a small amount of used antifreeze, if the discharge of antifreeze is governed by paragraph (b) of section 307 of the Clean Water Act (33 U.S.C. § 1317), as that section existed on October 3, 1996, or section 402 of the Clean Water Act (33 U.S.C. § 1342), as that section existed on October 3, 1996. For the purposes of this subsection, wastewater contains a small amount of used antifreeze if the antifreeze is discharged as a result of small spills, leaks, or drips from pumps, machinery, pipes, and other equipment which occur during normal operations of the facility, or discharged into a system for the treatment of wastewater during the washing or draining operations of the system. Wastewater contains more than a small amount of used antifreeze if the antifreeze is discharged as a result of substantial leaks, spills, or other releases which occur during abnormal operations of the facility, or if the used antifreeze is recaptured from the wastewater.

Sec. 24. 1. *A generator of used antifreeze shall not mix any solid waste or hazardous waste with used antifreeze.*

2. A generator of used antifreeze shall store his used antifreeze in containers or storage tanks that are above the ground, or both, which comply with the requirements of section 16 of this regulation.

Sec. 25. *A center for the collection of used antifreeze shall register with the division for permission to manage used antifreeze. An application for registration may be obtained from the division.*

Sec. 26. *1. A generator of used antifreeze may recycle his used antifreeze for his own use if the recycling:*

(a) Is performed by the generator at a site which is located where the used antifreeze was generated; or

(b) Is performed pursuant to a written contract by a mobile unit for the recycling of used antifreeze which is located where the used antifreeze was generated.

2. Used antifreeze which is recycled pursuant to this section will not be calculated in the determination of the status of the generator of used antifreeze as a generator of hazardous waste pursuant to 40 C.F.R. Part 262, as that part existed on October 3, 1996.

3. A person who performs recycling pursuant to this section shall manage any waste which is generated during the recycling process pursuant to the provisions of NAC 444.850 to 444.8746, inclusive.

4. A generator who recycles his used antifreeze pursuant to paragraph (a) of subsection 1 is not required to obtain a written determination pursuant to NAC 444.8455 and 444.84555.

Sec. 27. *1. Except as otherwise provided in this section, a generator of used antifreeze shall ensure that his used antifreeze is transported by persons who hold an identification number.*

2. A generator may transport, without an identification number, used antifreeze generated at a site which is owned by the generator or collected from a person who generated the used antifreeze from his household if:

(a) The used antifreeze is transported in a motor vehicle which is owned by the generator or an employee of the generator;

(b) Not more than 350 gallons of used antifreeze is transported at one time;
and

(c) The used antifreeze is transported to a point for aggregation or a center for the collection of used antifreeze which is registered pursuant to section 25 of this regulation.

3. Used antifreeze which is transported pursuant to subsection 2 will not be calculated in the determination of the status of the generator of used antifreeze as a generator of hazardous waste pursuant to 40 C.F.C. Part 262, as that part existed on October 3, 1996, if he maintains records which describe the disposition of the used antifreeze. The records must be maintained for at least 3 years and be made available, upon request, for inspection by a representative of the division or commission. The records may be in the form of a log, copies of contractual agreements, invoices, bills of lading, or other documents relating to shipping which show each shipment of used antifreeze that is transported for recycling. The records must include:

(a) The name and address of the generator;

(b) The identification number of the generator, if he has an identification number.

(c) The name and address of the center for the collection of used antifreeze or the facility for the recycling of used antifreeze with whom the generator has contracted to recycle the used antifreeze;

(d) The identification number of the center or facility, if it has an identification number;

(e) The amount of used antifreeze that is transported for collection of recycling; and

(f) The signature and date of acceptance of the representative of the center or facility.

Sec. 28. *1. Except as otherwise provided in this section, the provisions of sections 28 to 38,*

inclusive, of this regulation apply to all transporters of used antifreeze. The provisions of sections 28 to 38, inclusive, of this regulation apply to the transportation of used antifreeze for the purposes of import into this state and export from this state while the used antifreeze is located in this state.

2. The provisions of sections 28 to 38, inclusive, of this regulation do not apply to the transportation of used antifreeze on the site where the used antifreeze was generated.

3. The provisions of sections 28 to 38, inclusive, of this regulation do not apply to the transportation of used antifreeze which was generated at a site owned by the generator of used antifreeze or collected from a person who generates used antifreeze from his household if:

(a) The used antifreeze is transported in a motor vehicle which is owned by the generator or an employee of the generator;

(b) Not more than 350 gallons of used antifreeze is transported at one time;

and

(c) The used antifreeze is transported to:

(1) A center for the collection of used antifreeze which is registered pursuant to section 25 of this regulation; or

(2) A point for aggregation which is owned or operated by the generator.

4. The provisions of sections 28 to 38, inclusive, of this regulation do not apply to the initial transportation of used antifreeze generated from a household if the used antifreeze is transported to:

(a) A generator of used antifreeze;

(b) A center for the collection of used antifreeze;

(c) A point aggregation;

(d) A facility for the recycling of used antifreeze; or

(e) A mobile unit for the recycling of used antifreeze.

If the used antifreeze has been transported from a household pursuant to this subsection, the provisions of sections 28 to 38, inclusive, of this regulation apply to the subsequent transportation of the used antifreeze unless the transportation is otherwise exempt pursuant to this section.

Sec. 29. If a transporter of used antifreeze transports used antifreeze in a truck which was used to transport hazardous waste, he shall manage the used antifreeze as a hazardous waste pursuant to the provisions of NAC 444.850 to 444.8746, inclusive, unless he removes the hazardous waste from the truck in accordance with 40 C.F.R. § 261.7, as that section existed on October 3, 1996, before he transport the used antifreeze.

Sec. 30. 1. A transporter of used antifreeze may consolidate or aggregate loads of used antifreeze for the purpose of transporting the used antifreeze.

2. Except as otherwise provided in this subsection, a transporter of used antifreeze shall not perform any operations which process the used antifreeze unless he complies with the provisions of sections 39 to 50, inclusive, of this regulation. A transporter may perform operations which process the used antifreeze if the processing is a result of the normal operation of the transportation, including, without limitation, skimming or separating the used antifreeze.

Sec. 31. 1. Except as otherwise provided in subsection 4 of section 27 of this regulation, a transporter of used antifreeze must hold an identification number. An identification number may be obtained from the Environmental Protection Agency by submitting to the administrator a completed Form # 8700-12. This form is available, upon request, by telephone at (800) 882-3233.

2. A transporter of used antifreeze shall comply with all applicable provisions of 49 C.F.R. Parts

173, 178, and 179, as those parts existed on October 3, 1996, which govern the packaging, labeling, and placarding of hazardous waste.

Sec. 32. A transporter of used antifreeze shall transport all used antifreeze to:

- 1. Another transporter of used antifreeze who holds an identification number; or*
- 2. A facility for the recycling of used antifreeze which has an identification number and a written determination used by the administrator pursuant to NAC 444.8455 and 444.84555.*

Sec. 33. A transporter of used antifreeze shall maintain records of all used antifreeze accepted by him for the purpose of transport. He shall maintain the records for at least 3 years and, upon request, provide the records for inspection by a representative of the division. The record for each shipment of used antifreeze accepted by the transporter must include:

- 1. The name and address of the person or facility that provided the used antifreeze;*
- 2. The identification number of the person, if he has an identification number, or the facility, if it has an identification number;*
- 3. The quantity of used antifreeze accepted by the transporter; and*
- 4. The signature and date of delivery of the representative of the person or facility that provided the used antifreeze.*

Sec. 34. A transporter of used antifreeze shall maintain records of all used antifreeze which is delivered by him to another transporter, a facility for the recycling of used antifreeze, including a transporter or facility that is located in a foreign country. The transporter shall maintain the records for at least 3 years and, upon request, provide the records for inspection by a representative of the division. The record for each delivery of used antifreeze must include:

- 1. The name and address of the facility or transporter which received the used antifreeze from the transporter;*
- 2. The identification number of the facility, if it has an identification number, or the transporter, if he has an identification number;*
- 3. The quantity of used antifreeze that was delivered to the facility or transporter;*
- 4. The date of delivery of the used antifreeze; and*
- 5. The signature of a representative of the transporter or facility that received the used antifreeze from the transporter, unless the used antifreeze is delivered to a foreign country.*

Sec. 35. 1. If used antifreeze is released during transportation, the transporter of the used antifreeze shall immediately take action which is necessary to protect human health and the environment, including, without limitation, notification of the local, state, and federal officials in the location where the release occurred.

2. If an official from a local, state, or federal agency determines that the used antifreeze must be immediately removed to protect human health or the environment, that official may authorize the transportation of the used antifreeze by transporters who have not been issued an identification number.

3. If used antifreeze is released during transportation, the transporter shall clean up the release and take such action as is required or approved by an official from a local, state, or federal agency.

4. If used antifreeze is released during transportation, the transporter shall comply with the provisions of this section and section 20 and 21 of this regulation.

Sec. 36. If used antifreeze is released during transportation into a body of water which is located

in this state, the person who transports the used antifreeze shall:

- 1. Comply with the requirements of notice set forth in section 20 of this regulation;*
- 2. If required by 40 C.F.R. Part 302, as that part existed on October 3, 1996, or 49 C.F.R § 171.15, as that section existed on October 3, 1996, report the release to the National Response Center at (800) 424-8802 or (202) 426-2675; and*
- 3. In accordance with 49 C.F.R. § 171.16, as that section existed on October 3, 1996, provide a written report of the release to the Information Systems Manager, Research and Special Programs Administration, Department of Transportation, Washington, D.C. 20509-0001.*

Sec. 37. An owner or operator of a facility for the transfer of used antifreeze shall store the used antifreeze at the facility in storage tanks or containers, or both, which comply with the applicable requirements of sections 16 to 19, inclusive, of this regulation.

Sec. 38. An owner or operator of a facility for the transfer of used antifreeze shall not store used antifreeze for more than 35 days.

Sec. 39. The provisions of sections 39 to 50, inclusive, of this regulation apply to facilities for the recycling of used antifreeze which perform recycling of used antifreeze at a location other than the location where the used antifreeze was generated.

Sec. 40. 1. An owner or operator of a facility for the recycling of used antifreeze shall obtain a written determination from the administrator pursuant to NAC 444.8455 and 444.84555.

2. An owner or operator of a facility for the recycling of used antifreeze shall obtain an identification number. An identification number may be obtained from the Environmental Protection Agency by submitting to the administrator a completed Form # 8700-12. This form is available, upon request, by telephone at (800) 882-3233.

Sec. 41. An owner or operator of a facility for the recycling of used antifreeze shall store used antifreeze at the facility in storage tanks or containers, or both, which comply with the applicable requirements of sections 16 to 19, inclusive, of this regulation.

Sec. 42. 1. Except as otherwise provided in subsection 2, if a storage tank that is above the ground is no longer used at a facility for the recycling of used antifreeze, the owner or operator of the facility shall ensure that the used antifreeze, including its residue, is decontaminated or removed from the storage tank, system for containment, soil, and other structures or equipment which are contaminated with used antifreeze. The owner or operator shall manage the used antifreeze as a hazardous waste unless it does not exhibit a characteristic of hazardous waste identified in 40 C.F.R. Part 261, as that part existed on October 3, 1996.

2. If the owner or operator demonstrates to the satisfaction of the division that the used antifreeze cannot be removed or decontaminated as required by subsection 1, he must follow the procedures for closure and post-closure which are set forth in 40 C.F.R. § 265.310, as that section existed on October 3, 1996.

Sec. 43. If a facility for the recycling of used antifreeze is closed, the owner or operator of the facility shall ensure that containers which are used to store used antifreeze, including its residue, are removed from the facility and that systems for containment, soil, and other structures or equipment which

are contaminated with used antifreeze are decontaminated or removed. Material that is removed must be managed as a hazardous waste unless it does not exhibit a characteristic of hazardous waste identified in 40 C.F.R. Part 261, as that part existed on October 3, 1996.

Sec. 44. *An owner or operator of a facility for the recycling of used antifreeze shall maintain records of all used antifreeze accepted by the facility. The records must be maintained for at least 3 years and be made available, upon request, for inspection by a representative of the division. The records may be in the form of a log, copies of contractual agreements, invoices, bills of lading, or other documents relating to shipping which show each shipment of used antifreeze accepted by the facility for the purpose of recycling. The record for each shipment of used antifreeze accepted by the facility must include:*

- 1. The name and address of the person, or the owner or operator of the facility that provided the used antifreeze;*
- 2. The identification number of the person, or the owner or operator that provided the used antifreeze, if he has an identification number;*
- 3. The quantity of used antifreeze accepted by the facility; and*
- 4. The signature and date of acceptance of the representative of the person, or the owner or operator that provided the used antifreeze.*

Sec. 45. *An owner or operator of a facility for the recycling of used antifreeze shall manage any residue of used antifreeze which is generated by the storage or recycling of used antifreeze in accordance with the provisions of NAC 444.850 to 444.8746, inclusive.*

Sec. 46. 1. *An owner or operator of a facility for the recycling of used antifreeze shall ensure that the used antifreeze managed at the facility is not mixed with hazardous waste. The owner or operator shall submit to the division a written plan for the characterization of waste which describes the procedures that will be used at the facility to detect hazardous waste at the facility. The facility must not begin operations until the division has approved the written plan.*

- 2. The written plan must be reviewed, and amended if necessary, if the quantity or source of waste streams received at the facility changes significantly.*
- 3. The written plan must be maintained at the facility and be made available, upon request, for review by a representative of the division.*

Sec. 47. 1. *An owner or operator of a facility for the recycling of used antifreeze shall develop a plan for contingency to be followed if used antifreeze is released into the soil, groundwater, or surface water. The plan must:*

- (a) Be designed to minimize hazards to human health, public safety, and the environment upon the release of used antifreeze; and*
- (b) Describe the actions that personnel employed at the facility will be required to take upon the release of used antifreeze.*

2. *A facility for the recycling of used antifreeze shall review, and amend if necessary, its plan for contingency if:*

- (a) The plan fails in an emergency;*
 - (b) The facility undergoes a change in its design, construction, operation, or maintenance, or undergoes other changes which increase the potential for the release of used antifreeze; or*
 - (c) The facility changes its procedures for managing a release of used antifreeze.*
- 3.** *The plan for contingency must be maintained at the facility for recycling and be made*

available, upon request, for review by a representative of the division.

Sec. 48. *An owner or operator of a facility for the recycling of used antifreeze shall ensure that all containers and storage tanks at the facility, including the secondary systems for containment, are inspected at least once per week. The containers and storage tanks must be inspected for evidence of leaks and deterioration caused by corrosion or other factors. Each inspection must be documented in the written record of operation.*

Sec. 49. 1. *An owner or operator of a facility for the recycling of used antifreeze shall maintain a written record of operation. The record of operation must include:*

(a) The records and results of analyses performed on used antifreeze at the facility pursuant to section 46 of this regulation;

(b) Reports which summarize all incidents which required the facility to use its plan of contingency;

(c) A copy of the application for a written determination submitted by the facility pursuant to NAC 444.84555;

(d) A copy of the written determination issued to the facility by the administrator;

(e) The records for each shipment of antifreeze maintained pursuant to section 44 of this regulation; and

(f) The records of inspections of the containers and storage tanks used at the facility pursuant to section 48 of this regulation.

2. *The record of operation must be maintained at the facility until the closure of the facility.*

Sec. 50. 1. *An owner or operator of a facility for the recycling of used antifreeze shall submit a written report to the administrator which includes:*

(a) The name and address of the facility;

(b) The identification number issued to the facility;

(c) The quantity of used antifreeze accepted by the facility for recycling during the previous year; and

(d) The quantity and disposition of used antifreeze accepted and disposed in a manner other than recycling; and

(e) The calendar year which the report covers.

2. *The report must be received by the administrator on or before March 1 of the year after the period covered by the report.*

Sec. 51. *The provisions of sections 51 to 55, inclusive, of this regulation apply to an owner or operator of a mobile unit for the recycling of used antifreeze which recycles used antifreeze pursuant to a contract with a generator of used antifreeze.*

Sec. 52. *An owner or operator of a mobile unit for the recycling of used antifreeze shall obtain a written determination from the administrator pursuant to NAC 444.8455 and 444.84555.*

Sec. 53. *An owner or operator of a mobile unit for the recycling of used antifreeze shall maintain records of all used antifreeze accepted by the mobile unit for recycling. The records must be maintained for at least 3 years and be made available, upon request, for inspection by a representative of the division or commission. The records may be in the form of a log or copies of written contracts. The record for*

each shipment of used antifreeze accepted by the mobile unit for the purpose of recycling must include:

- 1. The name and address of the generator of used antifreeze;*
- 2. The identification number of the generator, if he has an identification number;*
- 3. The quantity of used antifreeze that is accepted by the mobile unit;*
- 4. The date of acceptance of the used antifreeze; and*
- 5. Upon completion of the contract, the date of completion and the signature of the representative of the owner or operator of the mobile unit.*

Sec. 54. 1. Except as otherwise provided in subsection 2, an owner or operator of a mobile unit for the recycling of used antifreeze is responsible for the proper management, in accordance with NAC 444.850 to 444.8746, inclusive, of residue of used antifreeze generated during the recycling or storage of the used antifreeze.

2. If recycling of used antifreeze occurs at the location where the used antifreeze was generated, the contract between the generator of used antifreeze and the owner or operator of the mobile unit which performs the recycling may specify that the generator is responsible for the proper management, in accordance with NAC 444.850 to 444.8746, inclusive, of residue of used antifreeze generated during the recycling or storage of the used antifreeze.

Sec. 55. 1. An owner or operator of a mobile unit for the recycling of used antifreeze shall submit a written report to the administrator which includes:

- (a) The name and address of the mobile unit;*
 - (b) The identification number issued to the mobile unit;*
 - (c) The quantity of used antifreeze accepted by the mobile unit for recycling during the pervious year; and*
 - (d) The calendar year which the report covers.*
- 2. The report must be received by the administrator on or before March 1 of the year after the period covered by the report.*

END OF LCB FILE NO. R116-96 (PETITION 96016)